



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,446	11/08/2001	Wolfgang Schneider	VAW-5	5083
21890	7590	09/22/2005	EXAMINER	
PROSKAUER ROSE LLP PATENT DEPARTMENT 1585 BROADWAY NEW YORK, NY 10036-8299			MENON, KRISHNAN S	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/986,446

Applicant(s)

SCHNEIDER ET AL.

Examiner

Krishnan S. Menon

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 February 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

The examiner answer of 3/9/05 is hereby vacated because of a determination of non-compliant appeal brief by the Board of Patent Appeals and Interferences (copy attached). Applicant is required to submit a new appeal brief in compliance with 37 CFR 41.37(c).


W. L. WALKER

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Krishnan Menon
Patent Examiner

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

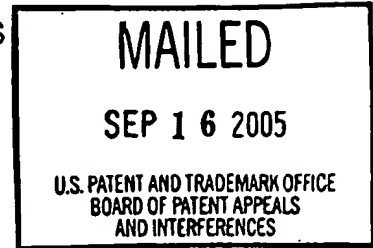
Ex parte WOLFGANG SCHNEIDER,
HANS-PETER KRUG AND
NICK TOWSEY

Application No. 09/986,446

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 21, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on February 14, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR §1.192(c). However, the rules under 37 CFR §1.192 (c) were abolished on September 13, 2004, and replaced by 37 CFR



§ 41.37(c). A review of the application reveals that the following sections are missing from the Appeal Brief:

(1) "Summary of the claimed subject matter" as set forth in 37 CFR

§ 41.37(c)(1)(v);

(2) "Grounds of rejection to be reviewed on appeal" as set forth in 37 CFR

§ 41.37(c)(1)(vi) (replaces "Issues for Review" and "Grouping of Claims");

(3) "Argument" as set forth in CFR § 41.37 (c)(1)(vii);

(4) "Claims appendix" as set forth in CFR § 41.37(c)(1)(viii) (replaced "Appendix";

(5) "Evidence appendix, as set forth in 37 CFR § 41.37(c)(1)(ix); and

(6) "Related proceedings appendix" as set forth in 37 CFR § 41.37 (c)(1)(x).

Additionally, the Examiner's Answer is found to be non-compliant with the New Rules set forth 37 CFR § 41.37 effective September 13, 2004. The application reveals that the following sections are missing from the Examiner's Answer in the order and with the context stated by the Rules:

(1) Summary of the claimed subject matter;

(2) Grounds of rejection to be reviewed on appeal;

(3) Evidence Relied Upon;

(4) Evidence Appendix; and

(5) Related Proceedings Appendix.

Accordingly, the Examiner's Answer filed on March 9, 2005 does not correspond with the new rules under 37 CFR § 41.37. It is required that a new Examiner's Answer be provided in compliance with the new rules. For more information on the Board's new

rules, please see the web page entitled "More Information on the Rules of Practice

Before the BPAI," Final Rule at:


<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- have the appellants submit a new Appeal Brief in compliance with the new rules set forth in 37 CFR § 41.37 (c) ;
- submit a new examiner's answer in accordance with the new rules effective September 13, 2004; and
- for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



Craig R. Feinberg
Program and Resource Administrator
(571) 272-9797

CRF/cam

Proskauer Rose LLP
1585 Broadway
New York, NY 10036-8299